

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kaitlin Campbell	Team: Squad #13	CCRB Case #: 201708119	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 10/02/2017 5:30 PM	Location of Incident: MTA Subway-Canal Street [J Train]	Precinct: 01	18 Mo. SOL 4/2/2019	EO SOL 4/2/2019	
Date/Time CV Reported Tue, 10/03/2017 2:34 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/03/2017 2:34 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Glenn Gray	05217	921392	TB DT02
2. SGT Farid Aliyev	00140	934381	TB DT02

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM William Maisonet	15057	950804	TB DT02

Officer(s)	Allegation	Investigator Recommendation
A.SGT Farid Aliyev	Abuse: Sergeant Farid Aliyev interfered with § 87(2)(b)'s use of a recording device.	
B.SGT Farid Aliyev	Abuse: Sergeant Farid Aliyev frisked § 87(2)(b)	
C.SGT Farid Aliyev	Abuse: Sergeant Farid Aliyev threatened to arrest § 87(2)(b)	
D.POM Glenn Gray	Discourtesy: Police Officer Glenn Gray spoke discourteously to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On October 3, 2017, § 87(2)(b) called the CCRB and filed this complaint. § 87(2)(b) was reached by phone on October 12, 2017 but was not scheduled for an interview because he lives in § 87(2)(b). § 87(2)(b) emailed a cell phone video of the incident on October 27, 2017 and mailed a notarized statement on November 16, 2017 that was received at the CCRB on December 4, 2017 (Board Review 01)(Board Review 02).

On October 2, 2017, at approximately 5:30 p.m., § 87(2)(b) paid to enter the Canal Street J-train station in Manhattan and let § 87(2)(b) in through the emergency gate. Sergeant Farid Aliyev and Police Officers Glenn Gray and William Maisonet of Transit Bureau District 02 stopped § 87(2)(b) and § 87(2)(b) to issue § 87(2)(b) a summons. § 87(2)(b) handed PO Maisonet his I.D., took out his cell phone and began recording a video of PO Maisonet holding his I.D. Sgt. Aliyev grabbed § 87(2)(b)'s right wrist and interfered with his video recording (**Allegation A: Abuse of Authority**, § 87(2)(g)). Sgt. Aliyev frisked § 87(2)(b) (**Allegation B: Abuse of Authority**, § 87(2)(g)). Sgt. Aliyev threatened to arrest § 87(2)(b) if he kept recording (**Allegation C: Abuse of Authority**, § 87(2)(g)). PO Gray said to § 87(2)(b) "You need to fucking act up. You need to respect me, I'm an officer. Respect goes a long way" (**Allegation D: Discourtesy**, § 87(2)(g)).

§ 87(2)(b) was issued a summons for entering the transit system without payment. Sgt. Aliyev failed to prepare a stop-and-frisk report (**Allegation E: Other Misconduct**). Along with § 87(2)(b)'s cell phone video, MTA surveillance footage was obtained (Board Reviews 03-06).

An attorney was consulted regarding Allegations A and D.

Findings and Recommendations

Allegation A – Abuse of Authority: Sergeant Farid Aliyev interfered with § 87(2)(b)'s use of a recording device.

It is undisputed that § 87(2)(b) entered the train system through the emergency gate without paying.

Upon being stopped, § 87(2)(b) said he did not think Sgt. Aliyev, PO Gray, and PO Maisonet were police officers because they were dressed in plainclothes and since—as a visitor from Texas—he was not familiar with the transit system or plainclothes NYPD officers. After the officers caught § 87(2)(b)'s attention by saying "Hey you, come here" and asked for § 87(2)(b)'s I.D., he told them he did not know who they were and asked them for some form of I.D. in exchange, to which PO Gray responded "no." This was not pleaded as a refusal to provide name and shield allegation because § 87(2)(b) was asking for proof the officers were in fact police officers and not asking a specific officer for particular identifying information. After arguing back and forth for about twenty minutes, § 87(2)(b) said he ultimately gave the officers his I.D. and took out his phone to record what they did with his I.D.

§ 87(2)(b)'s cell phone video is 01:47 minutes long and opens with PO Maisonet, wearing a gray shirt, holding § 87(2)(b)'s I.D. card and a smartphone in each of his hands. Sgt. Aliyev appears from the left, wearing a blue and white striped shirt at 00:04 seconds, and switches places with PO Gray at 00:08 seconds, wearing a light blue shirt. For the rest of the video PO Gray stands to the left of § 87(2)(b) and Sgt. Aliyev is not visible until about 01:21 minutes, when he is seen walking up, then down the stairs, in the left of the frame behind PO

Maisonet (Board Review 01).



§ 87(2)(b) CellPhoneVideo.mp4

At 01:43 minutes, the frame of the camera is covered and becomes maroon. § 87(2)(b) says, "Don't touch my phone" and it sounds like the microphone is muffled as the screen goes to black and maroon again a couple of times until 01:47 minutes when the video cuts out.

According to PO Gray, he asked § 87(2)(b) for his I.D. about five times before § 87(2)(b) finally handed it over to PO Maisonet, about six minutes after he was stopped. In the course of that time there was nothing § 87(2)(b) did that was threatening. PO Gray said that after § 87(2)(b) handed his I.D. to PO Maisonet, § 87(2)(b) took out his cell phone and held it in front of the center of his chest. PO Gray assumed, but did not know, § 87(2)(b) was recording. PO Gray said that while PO Maisonet ran § 87(2)(b)'s name, § 87(2)(b) put his hands in his pockets more than once. PO Gray did not suspect § 87(2)(b) was carrying a weapon but, for safety sake, he asked § 87(2)(b) to keep his hands out of his pockets.

PO Gray said that Sgt. Aliyev grabbed § 87(2)(b)'s phone and that this was depicted in § 87(2)(b)'s cell phone video, at 01:42 minutes when the screen goes maroon before the video cuts out. § 87(2)(b) pulled away from Sgt. Aliyev afterward and told Sgt. Aliyev not to touch him.

Sgt. Aliyev initially said that § 87(2)(b) took out his cell phone and started recording immediately after § 87(2)(b) handed PO Maisonet his I.D. but later said § 87(2)(b) started recording after Sgt. Aliyev took out his police I.D., though he did not otherwise say he showed § 87(2)(b) his police I.D. Sgt. Aliyev said he knew § 87(2)(b) was recording because he saw digits running on the bottom of his cell phone screen and said that § 87(2)(b) recording was "not a problem at all." Sgt. Aliyev said that § 87(2)(b) kept putting his hand in his pockets and the officers kept telling him not to. Sgt. Aliyev thought § 87(2)(b) may have had a weapon in his pockets because he did not know what § 87(2)(b) had in his pockets or why § 87(2)(b) kept putting his hands in his pockets. Other than him reaching into his pockets, there was nothing about § 87(2)(b) that was threatening to Sgt. Aliyev. Sgt. Aliyev said § 87(2)(b) put his left hand in his front left pocket and then in his back left pocket while holding his phone with his right hand. Sgt. Aliyev immediately grabbed § 87(2)(b)'s hand and felt the outside of § 87(2)(b)'s pockets.

Sgt. Aliyev said that the video went dark at 01:45 minutes because § 87(2)(b) put his right hand, with the phone, in his back pocket and maintained that he grabbed § 87(2)(b)'s left hand for about a second and felt the outside of § 87(2)(b)'s pockets. Sgt. Aliyev denied twisting § 87(2)(b)'s wrist in anyway while he held his hand.

When asked why § 87(2)(b) said "don't touch my phone" at 01:44 minutes in the video, Sgt. Aliyev said he did not know and said, after the clip was replayed the third time, he thought § 87(2)(b) said "fuck off." Sgt. Aliyev said he did not have an independent recollection of § 87(2)(b) saying "don't touch my phone" because § 87(2)(b)'s phone was in "the other hand" and his phone was not removed from him.

PO Maisonet said that his head was down the moment the video cut out because he was looking up § 87(2)(b)'s name in his phone, and therefore did not see Sgt. Aliyev grab the phone or twist § 87(2)(b)'s wrist.

Office of the Deputy Commissioner, Legal Bureau Bulletin, Vol. 46 No. 2 (2016) states that the First Amendment provides citizens the right to observe and record police officers carrying out their duties. Recognizing this, under no circumstances should a member of service intentionally block or obstruct cameras or other recording devices when there is no legitimate law enforcement reason to do so. An individual's right is not protected under the First Amendment only if it amounts to actual obstruction of a police officer's investigation (Board Review 07).

§ 87(2)(g)

Allegation B – Abuse of Authority: Sergeant Farid Aliyev frisked § 87(2)(b)

It is undisputed that § 87(2)(b)'s underlying offense was not paying the subway fare, which is not a violent offense.

§ 87(2)(b) did not allege Sgt. Aliyev frisked him.

Sgt. Aliyev said that § 87(2)(b) put his left hand suddenly in his pocket while he was holding his phone. Sgt. Aliyev grabbed § 87(2)(b)'s left wrist and pulled his hand out of the pocket, then patted the outside of § 87(2)(b)'s pocket and felt nothing. Sgt. Aliyev said he patted the pocket as a general safety precaution. He did not know whether § 87(2)(b) had a weapon but did not see an outline of a weapon or anything else in § 87(2)(b)'s pockets.

PO Gray and PO Maisonet were interviewed first and did not state that Sgt. Aliyev frisked § 87(2)(b). Nonetheless, PO Gray said that, although § 87(2)(b) had to be asked repeatedly to take his hands out of his pockets, there was nothing "threatening" about him. PO Gray said he asked § 87(2)(b) to take his hands out of his pockets for general safety reasons. PO Maisonet said he did not see any outlines or bulges in § 87(2)(b)'s pockets. As can be seen in § 87(2)(b)'s cell phone video, during his interaction with the officers, § 87(2)(b) was inquisitive but not suspicious or threatening.

Patrol Guide Procedure 212-11 states that an officer may frisk someone if he has reasonable suspicion that the person is carrying a weapon or when a reasonable officer suspects that the person could commit a violent crime (Board Review 09).

§ 87(2)(g)

Allegation C – Abuse of Authority: Sergeant Farid Aliyev threatened to arrest § 87(2)(b)

§ 87(2)(b) said that after the video cut out, Sgt. Aliyev told him to stop recording, that it was illegal to record, and that he would "take him to jail" if he kept recording.

§ 87(2)(b) said Sgt. Aliyev told § 87(2)(b) that if he kept recording he could be "taken in."

Sgt. Aliyev denied making those statements and said he had no problem with § 87(2)(b) recording the incident. PO Gray and PO Maisonet did not hear Sgt. Aliyev threaten to arrest § 87(2)(b) for recording and both officers said § 87(2)(b) could have recorded the incident.

§ 87(2)(g)

Allegation D – Discourtesy: Police Officer Glenn Gray spoke discourteously to § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) both said that PO Gray told § 87(2)(b) he needed to "fucking respect [PO Gray]."

This allegation was not captured on video.

PO Gray denied using profanity with § 87(2)(b) and Sgt. Aliyev and PO Maisonet did not hear PO Gray or any other officer use profanity with § 87(2)(b)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint.
- In the course of his 13-year tenure, Sgt. Aliyev has been the subject of 9 CCRB complaints and 17 allegations, one of which (#201307368, offensive language) was substantiated and resulted in Sgt. Aliyev receiving Command Discipline B. § 87(2)(g)

§ 87(2)(b)

Mediation, Civil and Criminal Histories

- This case was not suitable because § 87(2)(b) lives in § 87(2)(b) and was not planning on returning to New York in the near future.
- § 87(2)(b) has no prior convictions.

- On January 22, 2018, a FOIL request was submitted to the NYC Comptroller's office to determine whether a Notice of Claim was filed. The response will be added to the case file upon receipt.

Squad No.: 13

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date